

DOCKET NO.: AED-0003
Application No.: 10/734,220

PATENT

Office Action Dated: 06/02/2008

**REPLY FILED UNDER EXPEDITED
PROCEDURE PURSUANT TO
37 CFR § 1.116**

REMARKS

Claim 26-47 are pending in the application. Claim 26 has been amended to correct an obvious typographical error. In the last line thereof, “though” has been changed to –through--.

All of the pending claims stand rejected under 35 U.S.C. §103 as obvious in view of one or more of the following references: “Cardiac Arrest Survival Act of 2000”, May 23, 2000 (Reference U), a press release entitled “American Red Cross Applauds Passage of Cardiac Arrest Survival Legislation,” October 27, 2000 (reference V), and an article entitled “President Clinton Enacts Nation’s First Law to Place Life saving Portable Defibrillators, November 15, 2000 (Reference W) (collectively “CASA”). Reconsideration and withdrawal of these rejections is respectfully requested.

Applicant disagrees that the claimed subject matter would have been obvious over the CASA reference for all the reasons stated in the Remarks section of his May 14, 2008 reply. In the interest of brevity, those Remarks have not been re-printed herein, but they are repeated and incorporated herein by reference. The Examiner is requested to consider them in conjunction with this response.

In addition, Applicant disagrees that the CASA reference qualifies as prior art that can properly be used to support a 103 rejection. In particular, the Declaration of Matthew Barrer Under 37 C.F.R. §1.131 (Att. 1) and the Declaration of Sally J. Harris Under 37 C.F.R. §1.131 (Att. 2) establish that the subject matter recited in independent claim 26 was invented before May 8, 2000. Since May 23, 2000 is the earliest of the dates of the CASA reference, it does not qualify as prior art.

The Barrer and Harris declarations form a part of the parent application. In the June 2, 2008 Advisory Action, the Examiner declined to consider the declarations, indicating that they had not been made of record in the instant application. Applicant expressly requests that they be made of record in the instant application.

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In addition, the Examiner has noted that “the Declaration[s] must at least specifically pertain to the claims of the instant application as well as the prior art relied upon in the instant application to be considered and found effective to overcome the references.” Applicant has done so below with respect to independent claim 26.

The preamble of claim 26 recites:

A method of supporting a cardiac emergency
readiness program at a facility comprising:

As set forth in paragraphs 4 and 5 of the Barrer declaration, before May 8, 2000, Applicant conceived and reduced to practice a “comprehensive emergency program” and “support of the emergency program.” As set forth in paragraphs 2 and 6 of the Harris declaration, this “program” had been offered and accepted by Brookside Country Club before May 8, 2000.

The first element of claim 26 recites:

auditing the program to determine if the program
has met certain minimum requirements including
proper placement of at least one automated external
defibrillator at the facility so as to assure a
predetermined proximity to an automated
external defibrillator by any victim of sudden
cardiac arrest at the facility;

As set forth in paragraph 5 of the Barrer declaration, before May 8, 2000, Applicant conceived and reduced to practice the auditing of a program by conducting a “SafeMeetings SiteReadiness Review” which “surveyed the building” or facility in connection with “placement of” automated external defibrillators. As set forth in paragraph 6 of the Harris Declaration, the program adopted by Brookside Country Club involved the placement of the

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an automated external defibrillator (AED) in the “closet of the rear wall of the Men’s Grill which was recommended after Matthew Barrer and others had concluded a “survey of the Brookside facilities” and concluded that this “site was chosen for its central location.” See also paragraph 13 of the Barrer declaration.

The second element of claim 26 recites:

certifying the facility as having a cardiac
emergency readiness program which has
met certain minimum requirements including
the proper placement of the at least
one automated external defibrillator;

The conception and reduction to practice before May 8, 2000 of the certification of the facility (i.e., the “validation” of the facility referred to in the Barrer declaration) as having met certain minimum requirements is described in paragraph 6 of the Barrer declaration, which describes not only “ongoing system maintenance” but “ongoing... validation...and recommend[ed] changes in systems in accordance with the law”. Once the program of the facility has been certified, the facility is “registered for one year.” See Exhibit A to Barrer declaration.

The third element of claim 26 recites:

providing on going support for the cardiac
emergency readiness program including
the promotion of the facility as having a
certified cardiac emergency readiness
program through a communication network.

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Paragraph 10 of the Barrer declaration describes additional “ongoing” support of a facility’s cardiac emergency readiness program by providing “public relations to its customers in order to promote goodwill by listing the customer on the SafeMeetings .com website. Clearly, use of the website for promotion of the program involves the use of a communications network; i.e., the Internet.

The May 14, 2008 Reply also makes reference to “PAD Program Legal Issues, the American Heart Association, 2001, and to “non-binding guidelines by the Department of Health and Human Services. (May 14, 2008 Reply at p.6). Copies of these materials are attached as Att. 3 and Att. 4, respectively, for the Examiner’s convenience.

In light of the foregoing, reconsideration of the section 103 rejection is respectfully requested.

Respectfully submitted,

Date: 07/21/08

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